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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,710	07/18/2000	Darvin Dale Raph	10991746-1	2017

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EXAMINER

STEELMAN, MARY J

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 07/24/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/618,710	RAPH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mary J. Steelman	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 May 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is in response to the amendment filed 05/22/2003.
2. As per Applicant's request the Specification has been amended. Claims 1-20 are pending.

### ***Specification***

3. The use of the trademarks (for example: VISUAL BASIC, HP VEE, ACTIVE X, AND CORBA) have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-20** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

6,401,220 to Grey et al.

**Per claims 1, 10 and 16:**

-an identifier identifying an instance of the active data type, the computer program with which the active data type is utilized identifying the active data type instance by the identifier associated with the active data type instance; (Col. 5, lines 5-7, "A step type is a modular identifiable unit..." and lines 40-41, "...the first step type defines common functionality and common data (data types) for steps (instances) of the first step type." And lines 53-59, "The user then creates a test sequence file for testing the unit under test...wherein one or more of the steps are of the first step type (instances of the first step type)." Each variable or property has a data type (col. 16, line 63). See col. 4, line 65 – col. 5, line 3, "A step type ...comprises a custom set of properties and/or operations associated with a step...defines common operations and/or data..." Thus a step type contains a defined data type. See col. 14, lines 23-60, "...variables and properties, in which data values can be stored. Variables are properties that the user can freely create in certain contexts...Each step...can have properties...variables are used to share data among tests...Values that are stored in variables and properties can be passed to code modules...In TestStand, the values of variables and properties can be used in numerous ways, such as passing a variable to a code module or using a property value to determine whether to execute a step (associated algorithm)." Col. 15, lines 37-60, "When the user creates a variable or property, the user specifies its data type...When a named data type is created, the user can reuse the named data type for multiple variables or properties...the values they contain can

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differ...TestStand defines certain standard named data types. The user can add sub-properties...The user can define his/her own custom named data types. The user must choose a unique name (identifier) for each of the custom data types...When the user creates a variable or property, the user can select from among the simple property types and the named data types.”)

-at least a first algorithm associated with the active data type, the first algorithm being configured to be automatically executed when an attempt is made to access a value associated with the active data type instance. (Col. 6, lines 1-5, “...executing the pre-step functionality; executing a code module referenced by the step after executing the pre-step functionality; and executing the post-step functionality...” Col. 25, lines 31-34, “...when the user create and/or stores a...data of a first type in the file, the TestStand Engine automatically stores a type definition of the first type in the file in response thereto (algorithm associated with the active data type).” Additional examples of associated algorithms are found in column 25.)

**Per claims 2, 11, and 17:** (Col. 6, lines 55-65.)

**Per claims 3, 12, and 18:** (Col. 23, lines 56-65.)

**Per claims 4, 13 and 19:** (Col. 6, lines 44-54.)

**Per claims 5, 14, and 20:** (Col. 6, lines 55-64 and col. 18, lines 27-35.)

**Per claim 6:** (Col. 17, lines 47-67.)

**Per claim 7:** (Col. 17, lines 47-67.)

**Per claim 8:** (Col. 17, lines 47-67.)

**Per claims 9 and 15:** (Abstract, lines 1-8 and col. 7, lines 18-22.)

***Response to Arguments***

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6. Applicant's arguments filed 05/22/2003 have been fully considered but they are not persuasive.

Applicants have argued, in substance, the following:

(A) Regarding claims 1, 10 and 16: Grey does not teach or suggest an "active data type" comprising an "identifier" and "at least a first algorithm". An "active data type" is not a "step type". Grey's step type does not include an identifier. Grey fails to teach "at least a first algorithm" configured to be executed "when an attempt is made to access a value associated with the active data type instance."

Each variable or property has a data type (col. 16, line 63). See col. 4, line 65 – col. 5, line 3, "A step type ...comprises a custom set of properties and/or operations associated with a step...defines common operations and/or data..." Thus a step type contains a defined data type. See col. 14, lines 23-60, "...variables and properties, in which data values can be stored. Variables are properties that the user can freely create in certain contexts...Each step...can have properties...variables are used to share data among tests...Values that are stored in variables and properties can be passed to code modules...In TestStand, the values of variables and properties can be used in numerous ways, such as passing a variable to a code module or using a property value to determine whether to execute a step (associated algorithm)." Col. 15, lines 37-60, "When the user creates a variable or property, the user specifies its data type...When a named data type is created, the user can reuse the named data type for multiple variables or properties...the values they contain can differ...TestStand defines certain standard named data types. The user can add sub-properties...The user can define his/her own custom named data types. The user must choose a unique name (identifier) for each of the custom data

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types... When the user creates a variable or property, the user can select from among the simple property types and the named data types.” Col. 25, lines 31-34, “...when the user create and/or stores a...data of a first type in the file, the TestStand Engine automatically stores a type definition of the first type in the file in response thereto (algorithm associated with the active data type).” Additional examples of associated algorithms are found in column 25.

Therefore, the rejection of claims 1-20 is proper and maintained.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Steelman, whose telephone number is (703) 305-4564. The examiner can normally be reached Monday through Thursday, from 7:00 A.M. to 5:30 P.M. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (703) 305-4552.

The fax phone numbers are (703) 746-7240 for regular communications and (703) 746-7239 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

MS



07/17/2003

